# **JUNE 24, 2008**



# California First-Year Law Students' Examination

#### **ESSAY EXAMINATION INSTRUCTIONS**

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

Twelve-year-old Charlie was riding on his small, motorized 3-wheeled all terrain vehicle ("ATV") in his family's large front yard. Suddenly, finding the steering wheel stuck in place, Charlie was unable to steer the ATV, and he panicked. Instead of applying the brakes or turning off the ATV, he jumped off of it and ran away. The ATV continued on its own, rolled out of the yard and into the residential street, directly in front of a car driven by Paul. Paul was sending a text message on his cell phone while driving. He failed to see the ATV roll into the street and he crashed into it. Although the ATV was not large, it was heavy enough that the accident caused serious personal injuries to Paul, and significant damage to his car.

An examination of the wreckage of the ATV showed that the steering wheel stuck because of a malfunction of the steering system. The ATV and the steering system are manufactured by KiddieRides-R-Us.

Under what theory or theories might Paul recover, and what is his likelihood of success, against:

- a. Charlie?
- b. KiddieRides-R-Us?

Discuss.

Angela, Brian and Carter were at Angela's house, drinking beer. They wanted to order a pizza and have it delivered, but they did not have enough money to pay for it. Carter suggested they order the pizza and grab it from the pizza delivery person without paying. Brian told Angela to call the pizza parlor. She did so and ordered a pizza, knowing she could not pay for it. Brian and Carter waited outside the house.

When the delivery person arrived with the pizza, Carter pulled a gun out of his jacket pocket. Brian had no idea Carter was carrying a gun. Carter fired the weapon into the delivery person's vehicle but did not hit anyone. Carter told Brian to grab the pizza and run. Brian was shocked by Carter's actions and did not move. Carter turned the gun on Brian and told him, again, to grab the pizza and run. Brian then grabbed the pizza, and Carter and Brian fled the scene. Brian and Carter returned to Angela's house through the back door and all of them ate the pizza. Later, the police arrested Angela, Brian and Carter.

With what crimes, if any, can Angela, Brian and Carter reasonably be charged and what defense(s), if any, can each of them reasonably assert? Discuss.

Sally decided to hold a garage sale. She posted signs in the neighborhood which read: "Giant Garage Sale — Electronic keyboard: \$200 (one only), designer clothes, CD's, Books and More! Sunday, Noon to 4:00 p.m."

On Sunday, Andy saw one of Sally's signs, and arrived at her home promptly at noon. He examined the keyboard and then announced, "I'll take the keyboard for \$200, but first I need to get a truck to move it home. I'll be back before 4:00 with the money and a truck." Before Sally could respond, he left.

Sally's friend, Betty, stopped by at 1:00, and saw a designer gown. Betty told Sally, "I'd love to buy that gown, but I can't afford it!" Sally replied, "I had hoped to get \$400 for the gown, Betty, but you've helped me out before, and I've always wanted to pay you back. So, if I can't sell it for \$400 by 3:30, the gown is yours for free." Betty thanked Sally and left.

At 1:30, Chuck browsed through the garage sale and found a set of art books. "I want to buy these," he told Sally, "but I don't have any cash with me." "That's O.K.," Sally replied. "I'll sell you those books for \$100. The offer's open until 4:00." "Thanks," Chuck answered, "I'll be back as soon as I can."

At 3:30, Betty called Sally and asked if anyone had purchased the gown yet. "Not yet," Sally replied. "No one's here so I'm going to close up early. It looks like it's yours." "Thanks," Betty responded. "I am going to run to the store and buy shoes and a purse that match the gown."

At 3:45, Debbie arrived at the sale, pointed at the gown Sally had promised to Betty, and said, "I'll buy that gown for \$300, and I'll buy that set of art books too." Sally sold the gown and books to Debbie.

Chuck returned before 4:00, saw Debbie carrying the books and said to Sally, "You can't sell those books to her! We had a deal!" Although he attempted to give Sally \$100, she refused the money.

Betty arrived shortly thereafter, and showed Sally the shoes and purse that she had purchased to go with the gown. Sally told her the evening gown had been sold.

- 1. Does Andy have an enforceable contract with Sally? Discuss.
- 2. Does Betty have an enforceable contract with Sally? Discuss.
- 3. Does Chuck have an enforceable contract with Sally? Discuss.

Dede attends college with Alex, Betty, and Carl. One day, an argument that she was having with Alex, her ex-boyfriend, became heated. The argument occurred in a very crowded college lecture hall between classes. During the argument, Dede picked up a heavy textbook and threw it at Alex. Alex shielded his head with his hands and ducked. The textbook missed Alex, but it hit Betty, who was standing behind Alex. The impact fractured Betty's nose.

Enraged at missing Alex, Dede then picked up another textbook and threw it as hard as she could into a crowd of students gathered nearby. This second textbook struck Carl, who was standing in the crowd. As a result, Carl suffered a bruised rib.

What intentional tort claims, if any, do Alex, Betty, and Carl have against Dede? Discuss.